11. Insurance

This chapter looks at:

* types of insurance cover provided for the committee by DELWP
* groups not covered under this insurance
* insurance the committee may need to purchase
* incidents and claims.

## 11.1 DELWP’s insurance cover for committees of management

DELWP provides public liability, professional indemnity and personal accident insurance for Committees of Management of Crown land reserves. Committees do not need to purchase these types of insurance policies.

The table below shows the cover DELWP's insurance policy provides to committees of management. Certificates of currency for these policies can be obtained from DELWP. Certificates are issued from 30 June each year, though they may not be immediately available from this date, and are valid for one year.

|  |  |  |
| --- | --- | --- |
| **Insurance** | **Description** | **Covers** |
| **Public and product liability** | Cover against legal liabilities for injury or loss to third parties (members of the public and others) | Committee of management |
| **Professional indemnity** | Cover to protect committee members from claims of breach of 'professional duty’ alleged to have been made in the conduct of the committee's activities | Committee of management |
| **Group personal accident** | Cover for a volunteer (including a committee member) who is injured while engaged in voluntary activities organised or authorised by or under the control of a committee of management. | All authorised volunteers including committee members |

Personal accident insurance (volunteers)

DELWP's personal accident insurance covers individual volunteer activities for a purpose directly connected to the purpose of the reserve and authorised by the committee.

The committee must maintain records of who volunteered and when and the nature of the activity. See below for an example of a volunteer attendance register.

Example volunteer attendance register

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Date | Name | Time in | Time out | Event (if applicable) | Task(s) performed | Volunteer's signature |
| 17/4/12 | John Smith | 10:30am | 12pm | Monthly working bee | Weeding  Painting |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

## 11.2 Groups not insured under DELWP’s insurance policies

A Crown land reserve might be used by many different groups in a variety of ways. The department's insurance program only provides public liability insurance for the committee. This is why the committee needs to think about who else uses the reserve in a way that might cause damage or injury to a member of the public.

Lease or licence holders

Lease and licence holders are not covered by the department’s insurance policies. Lease and licence holders should be required, under the conditions of their lease or licence, to maintain public liability insurance. The committee must also make sure lease or licence holders produce a copy of their insurance policy certificates to them each year.

The committee can also require a tenant to insure any buildings they occupy if they are the sole occupant.

Organisations which have a lease or a licence should also have insurance to cover any of their property stored on reserve premises.

Regular users

The reserve might be used by an organisation or group on a regular basis where there is no formal agreement in place. For example a sporting group might practice at the reserve on a seasonal basis, or an interest group might meet at the reserve monthly. The committee should consider whether to request evidence that the user has liability insurance in place depending on the nature of the activity and the level of risk (see chapter 10 for further information on risk).

Contractors

Contractors are not covered by the department’s insurance policies and committees must ensure they have their own insurance before they are engaged to carry out work on the reserve. The type of insurance required by the contract will depend on the nature of the work being undertaken. For example, an arborist would need public liability and professional indemnity insurance. On the other hand, a person mowing the oval may only require public liability insurance.

Casual hirers and users

Some Crown land reserves have facilities that can be hired out to organisations or individuals for a one-off event, such as a party or a meeting. The department’s insurance policy does not cover people who hire facilities against third party claims for injuries caused by the hirer, for example, food poisoning of guests at a wedding.

Casual hirer’s public liability insurance is designed to provide uninsured hirers with insurance protection against claims by third parties for injury or property damage arising out of the activity at the hired facility relating to the negligence of the hirer. The committee can purchase this insurance on an annual basis, with the premium dependent on the estimated number of bookings over the year that would require cover. The cost of the insurance policy can be recovered in the hire fee.

An organisation which hires facilities might have a policy in place that may cover a potential liability, and they should be asked to provide evidence of the policy. Individuals may not have insurance that would cover them in this situation and many committees purchase casual hirer’s public liability insurance (also called "hirer’s liability insurance") as an alternative.

Casual hirer's public liability insurance is available from Jardine Lloyd Thompson Pty Ltd. Call (03) 8664 9309.

Commonwealth, state or local government users of the reserve

Government departments maintain their own insurance and unless they are the lessee or licensee of a reserve, for example a school on a reserve, there is no need to ask for evidence of insurance.

What to verify on insurance certificates of other groups

|  |  |
| --- | --- |
| Certificate Section | Item to check |
| Name of insured | Matches the name on the licence or lease or name of user group |
| Type of insurance | Public liability or combined liability or general liability. Committees should consider requiring a tenant to insure the premises |
| Period of insurance | Must cover the forthcoming twelve months |
| Insured sum | Generally $10 million public and product liability cover is required. |

## 11.3 Insurance the committee may need to purchase

Building and/or contents insurance

Committees are responsible for arranging insurance for damage to buildings on the reserve (property insurance) and for loss of or damage to contents and other assets owned by the committee (contents insurance). As discussed above, if the buildings are occupied under a lease, the tenant can be required to insure the premises.

Workers Compensation insurance (WorkSafe Insurance)

If a committee employs staff under employment contracts and the committee’s annual payroll is expected to be more than $7500, the committee will need to take out WorkSafe Insurance. Call WorkSafe Victoria on (03) 9641 1444 or 1800 136 089 for advice on the required insurance

Directors and Officers insurance

A number of committees arrange directors and officers insurance (D&O). D&O can provide cover for alleged errors or omissions which a committee member or executive officer might make in their role with the committee. Employment practices liability cover is often included under a D&O policy, and can assist the committee in responding to employment-related disputes.

Advice on other insurance needs

|  |
| --- |
| **The following websites provide information on the different types of insurance available and what a committee should look for in an insurance policy.** |
| * [Our Community](https://www.ourcommunity.com.au/insurance/insurance_main.jsp) * [Justice Connect not-for-profit law - insurance](http://www.nfplaw.org.au/insurance) |

As committees come in all shapes and sizes, there is no one list of insurance requirements that will suit all committees. Terms of insurance policies also vary widely between different insurance companies. DELWP Insurance Management can provide the committee with advice. Contact the DELWP Call Centre on 136 186.

## 11.4 Incidents and claims

Claims can arise when there has been damage to property owned by a member of the public or if a member of the public is injured while on a Crown land reserve or at an event organised by the committee. This includes events not held on the reserve.

Becoming aware of an incident

Committees of management may become aware of incidents or other potential claims from a variety of sources:

* the injured party or property owner or their representative
* police, ambulance or emergency service personnel
* the media
* a legal representative of the injured party or property owner
* a committee member or staff member who observed the incident.

Notify DELWP as soon as possible after becoming aware of an incident or potential claim (see next page).

Receiving notification of an incident in person or by phone

* Make note of the date and time, the person who made the report and the date and details of the reported incident. Ask the person to submit their claim in writing (an email is fine).
* Do not make any remarks or comments about the incident to the person making the notification. Call DELWP Insurance Management on 136 186 to discuss the next steps.
* Avoid making any admission of liability (see below).
* Contact DELWP as soon as possible (see next page.)

Avoiding making an admission of liability

* Whenever any committee member is responding to or investigating an incident under no circumstances should they admit liability.
* An admission of liability can, in some circumstances, void the insurance policy.
* However, note that an apology couched in the right way will not constitute an admission of liability. Either of the following are ways of apologising without admitting liability:
* "I am sorry this has happened."
* "I know this has caused you concern/pain/anxiety."

Things to avoid

To reduce the likelihood of unnecessary claims being made, there are a number of things that should not be done:

* Do not admit responsibility for any incident.
* Do not offer to pay any medical or other expenses.
* Do not agree that any equipment or facilities were faulty.
* Do not blame other committee members, employees or other parties.
* Do not argue or discuss the cause of the incident with the injured person or witnesses.
* Do not conduct the investigation or fill out the incident report form in the presence of the injured person.
* Do not discuss the incident with the media or make statements about the incident prior to receiving instructions from DELWP Insurance Management.

Notifying DELWP of an incident

It is important to notify the [local DELWP office](http://www.delwp.vic.gov.au/about-us/regions-and-locations) or DELWP Insurance Management on 136 186 as soon as possible after an incident which has resulted in damage to property or injury to a person whilst on a Crown land reserve or at an event organised by the committee, whether or not it occurs on Crown land.

DELWP will advise on the information needed to make a report of the incident which will be used if a formal claim for damages is made. DELWP will also provide a form to complete when compiling the incident report.

An incident should always be reported at the time it occurs. A claim may not be made until many years after an incident has occurred, and it is important to gather reliable information.

Incidents involving employees

Incidents that cause or could have caused (a near miss) serious injury or death to an employee must be reported to WorkSafe as soon as possible on 132 360. A completed Incident Notification Form must be returned to WorkSafe within 48 hours.

Investigating an incident

All incidents that are potential claims need to be investigated as soon as possible after they occur. The longer the time elapsed between the incident and the investigation, the less likely it is that information will be available or accurate. The committee’s responsibility is to gather the facts of the case so that DELWP can consider whether there is a liability at law, or whether liability is with another authority or person. Information to collect includes:

* the possible claimant’s name and address
* any witnesses’ names and addresses
* incident particulars (what happened)
* nature of the injury or extent of damage
* photos of the area where the incident took place, or photos of the damaged property or injury.

When new information or witnesses are found at any time after the incident, DELWP Insurance Management should be notified as soon as possible on 136 186.

Formal claims made against the committee

A formal claim for compensation is usually lodged in writing or by a writ or statement of claim. Make a note of how the letter or claim arrived. Was it by mail or hand delivered? If by hand, who delivered it?

**DELWP Insurance contact details:**

Senior Claims Officer

DELWP Insurance Management Unit

PO Box 500

MELBOURNE VIC 3002

Do not make any remarks or comments about the incident to any person who delivered the letter or claim. Do not reply to any letter or claim.

Send the letter, writ or statement of claim and the incident report, including any names of witnesses and any notes or photos relating to the incident to DELWP Insurance (see contact details).

Call DELWP Insurance Management on 136 186 to discuss the next steps.